<u>Remarks</u>

In response to the Office Action dated April 10, 2008, Applicant respectfully requests reconsideration based on the above claim amendments and the following remarks. A replacement specification is being submitted herewith.

Claims 1-3, 5-10, 12-16 and 18 have been amended. Support for the amendments may be found on pages 29-36 of the specification.

<u>Interview Summary</u>

A telephone interview was conducted on June 3 between Examiners Antonienko and Mooneyham and the undersigned. During the interview it was discussed that the Glynn reference did not use "issues" and "purposes" as inputs to its system but uses "customer demand information" instead. The Glynn reference required an additional level of manual analysis. No agreement was reached.

<u>101 Rejections</u>

Claims 15-20 stand rejected under 35 U.S.C. §101 because the claimed invention is allegedly directed to non-statutory subject matter. However, independent claim 15 has been rewritten and now includes recitations to computing devices. As such, claim 15 is directed to statutory subject matter, and the rejection may be withdrawn. Since claims 16-20 depend from claim 15, Applicant respectfully submits that the rejection of these claims may also be withdrawn.

<u>102 Rejections</u>

Claims 1-2, 6-7 and 15 stand rejected under 35 U.S.C. 102(e) as being anticipated by Glynn (U.S. Pat. 6,658,192). Applicant respectfully traverses the rejections.

<u>Claims 1-7</u>

Amended independent claim 1 recites, impertinent part:

"[a] method for provisioning a span for digital services... the span design being created by selecting from a hierarchy of one or more templates, the hierarchy comprising one or more of : element templates, segment templates and architecture templates,
wherein an element template represents singular device that is defined by a

function of the device and is later selected for inclusion into the span design based at least in part by the function ,

a segment template represents a specific combination of one or more element templates that is defined, and later selected for the span design, by a problem that the segment template was created to address, and

an architecture template represents a specific combination of one or more element templates and segment templates that is defined, and later selected for the span design, by a set of problems that the architecture template was created to address."

The Office Action rejected independent claim 1 by asserting that Glynn describes each and every claim element. However, without conceding that the rejection is correct, claim 1 has been amended to clarify that the span design is "created by selecting from a hierarchy of one or more templates, the hierarchy comprising one or more of : element templates, segment templates and architecture templates…". On page 4, the Office Action concedes that Glynn fails to describe that a span design is created based on a hierarchy of the components. As such, Glynn fails to anticipate amended independent claim 1 for at least this reason.

In the interest of an efficient prosecution, Applicant respectfully asserts that McDonald fails to cure the conceded discrepancies in Glynn. For example, the Office Action specifically cites column 1, lines 15-22 and column 7, lines 27-35 in support of its assertion that McDonald cures the conceded discrepancies in Glynn by describing that the span design is created based on a hierarchy of the components. Applicant respectfully disagrees.

McDonald relates to a database display system that facilitates the allocation and provisioning of telecommunications equipment (Col. 1, l. 5-10; Col. 2, l. 31-34). McDonald further describes that network *elements* are centrally organized in equipment bays containing circuit packs which provide communications through several ports where each port is divided into tributaries. (Col. 1, l. 15-25). The display system depicts identities and interconnectivity of network *elements* using graphical object templates. (Col. 2, l. 43-55) and a wizard for provisioning the network (e.g.. establishing a cross connect). The user has a variety of *functions* that allows them to create, modify, view or delete provisioned paths (Col. 2, l. 60-63) using object oriented programming techniques (Col. 4, l. 44-46) allowing for the combination of graphical provisioning object templates (Col. 4, l. 59-67) or classes (Col. 5, l. 7-10).

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The user is prompted to enter the topology object and whatever data is necessary to define the desired topology (e.g. port/tributary carrying traffic to be monitored or cross connected between node E and F). (Col. 7. l 20-30; Col. 9, l. 10-20). The user adds descriptive information using conventional selection trees to allow hierarchical objects to be displayed as an expandable outline. (Col. 7. l 30-35). In effect, the McDonald system is an interactive graphical circuit analysis program allowing a user to insert desired network elements or combinations of network elements into a graphical system representation.

However, Applicant respectfully notes that the McDonald system only allows network hardware elements to be added and provisioned to a network after the designer analyzes the problem and decides what elements or combinations of elements are required.

McDonald is silent concerning any functionality describing that "...an element template represents singular device that is *defined by a function* of the device and is later selected for inclusion into the span design based at least in part by the function,

a segment template represents a specific combination of one or more element templates that is defined, and later selected for the span design, *by a problem* that the segment template was created to address, and

an architecture template represents a specific combination of one or more element templates and segment templates that is defined, and later selected for the span design, *by a set of problems* that the architecture template was created to address..."

McDonald requires a designer to manually analyze the problems encountered in developing a network and also analyze the functionality of various network elements (and the combinations/permutations of elements) that may contribute to the correct solution of the problem being solved. The computerized McDonald system does not permit "...an element template [to be] selected for the span design based on the function of the element, a segment template [to be] selected for the span design based on the problem that the segment template was created to address, and an architecture template [to be] selected for the span design based on the problem that the architecture template was created to address..." A method using order data, the assignment of components, and the equipment data to create a span design for the provision of digital services

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"...wherein the span design is being created by selecting from a hierarchy of one or more templates, the hierarchy comprising one or more of : element templates, segment templates and architecture templates,

wherein an element template represents singular device that is defined by a function of the device and is later selected for inclusion into the span design based at least in part on the function of the device,

a segment template represents a specific combination of one or more element templates that is defined, and later selected for the span design, by a problem that the segment template was created to address, and

an architecture template represents a specific combination of one or more element templates and segment templates that is defined, and later selected for the span design, by a set of problems that the architecture template was created to address" is a different concept than the conventional McDonald system where elements and combinations of elements are added to a graphical network display after manual analysis of a problem or desired function.

Because neither Glynn nor McDonald describes that "...an element template is selected for the span design based on the function of the element, a segment template is selected for the span design based on the problem that the segment template was created to address, and an architecture template is selected for the span design based on the problem that the architecture template was created to address...", a prima facie case of obviousness cannot be established. As such, amended independent claim 1 is allowable over Glynn, McDonald and their combination for at least these reasons. Amended independent claim 8 recites similar subject matter and is allowable over Glynn, McDonald and their combination for at least the same reasons. Claims 2, 7 depend from an allowable independent claim 1 and are allowable for at least the same reasons.

Claim 15

Amended independent claim recites, in pertinent part:

"[a] system for the provision of a span design for digital services... wherein the main server receives assignment data from the ACS, the assignment data identifying one or more components for the digital services each component being associated with one of one or more specific problems concerning the provision of the digital services and a

device functionality, and forwards the assignment data to an inventory module (IM) which uses the assignment data to determine equipment data based at least in part on the assignment data, and wherein the main server receives the equipment data from the IM and processes the order data, the assignment data, and the equipment data to create the span design for the digital services by selecting a combination of one or more components based on the one or more specific problems and device functionalities concerning the provision of the digital services being ordered.

The Office Action rejects independent claim 15 by asserting that Glynn describes each and every claim element. However, without conceding that the rejection is correct, independent claim 1 has been amended to include new subject matter not described in Glynn. For example, Glynn fails to describe "…each component being associated with one of one or more specific problems concerning the provision of the digital services and a device functionality… and fails to describe the main server "…selecting a combination of one or more components based on the one or more specific problems and device functionalities concerning the provision of the digital services being ordered…".

As discussed above in regards to amended independent claim1, Glynn fails to describe "…each component being associated with one of one or more specific problems concerning the provision of the digital services and a device functionality… and fails to describe the main server "…selecting a combination of one or more components based on the one or more specific problems and device functionalities concerning the provision of the digital services being ordered…". Therefore, amended claim 15 is not anticipated by Glynn. As such, amended independent claim 15 is allowable over Glynn for at least this reason. In the interest of an efficient prosecution, McDonald also fails to describe at least that "…each component being associated with one of one or more specific problems concerning the provision of the digital services and a device functionality… and fails to describe the main server "…selecting a combination of one or more components based on the one or more specific problems and device functionalities concerning the provision of the digital services being ordered…", as discussed above in regards to amended independent claim 1. Therefore, a prima facie case of obviousness can not be established over Glynn in view of McDonald since the combination Glynn and McDonald fails to describe each and every claim element.

Claims 16-20 depend from an allowable amended independent claim 15 and are allowable for at least the same reasons.

103 Rejections

Claims 3-5, 8-14 and 16-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Glynn in view of McDonald (U.S. Pat. 6,704,030). Applicant respectfully traverses the rejections. Claims 3-5 and 9-11 have been cancelled without prejudice or disclaimer. As such the rejections against claims 3-5 and 9-11 have been rendered moot and may be withdrawn. Claims 16-20 depend from an allowable amended independent claim15 and are allowable for at least the same reasons.

Claims 8 and 12-14

Amended independent claim 8 recites, in pertinent part:

"[a] method for creating a span design for digital services…
wherein an element template represents singular device that is defined by the function of the element,
a segment template represents a specific combination of one or more element templates that is defined by the problem that the segment template was created to address, and
an architecture template represents a specific combination of one or more element templates and segment templates that is defined by the problem that the architecture template was created to address;
receiving an order for digital services; and
using order data to select one or more of the templates as a span design for the order,
wherein an element template is selected for the span design based on the function of the element,
a segment template is selected for the span design based on the problem that the segment template was created to address, and
an architecture template is selected for the span design based on the problem that the architecture template was created to address."

The Office Action rejects independent claim 8 by asserting that Glynn describes most of the claim elements but concedes that Glynn fails to describe "developing templates for use in creating span designs". The Office Action proceeds by asserting that McDonald cures the conceded discrepancies in Glynn.

However, without conceding that the rejection is correct, independent claim 8 has been amended to include similar subject matter to that recited by amended independent

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claim 1 above and not described in Glynn, McDonald or their combination. For example, amended independent claim 8 recites "...wherein an element template is selected for the span design based on the function of the element, a segment template is selected for the span design based on the problem that the segment template was created to address, and an architecture template is selected for the span design based on the problem that the architecture template was created to address."

As discussed above in regard to amended independent claim 1, McDonald fails to describe at least "...wherein an element template is selected for the span design based on the function of the element, a segment template is selected for the span design based on the problem that the segment template was created to address, and an architecture template is selected for the span design based on the problem that the architecture template was created to address." Therefore, amended independent claim 8 is allowable over the combination of Glynn and McDonald for at least the same reasons.

Conclusion

Applicant asserts that the application including claims 1-20 is now in condition for allowance. Applicant requests reconsideration in view of the amendments and remarks above and further request that a Notice of Allowability be provided. Should the Examiner have any questions, please contact the undersigned.

No fees are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

Date: July 09, 2008   _/Arno T. Naeckel/_____

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